

**United States District Court
Southern District of Indiana**

**PRO SE
HANDBOOK**



November 1, 1997

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CHAPTER I

INTRODUCTION

Welcome to the United States District Court for the Southern District of Indiana. We have prepared this handbook specifically for the person who is representing himself/herself in a lawsuit: we call such a person a "pro se" litigant, which means "for himself." This handbook is intended to be a practical and informative means of providing assistance to those who are litigating claims in a federal court. **It is important that you read this entire manual before you direct specific questions to the Clerk's Office about your lawsuit; many of your questions will be answered in this handbook.**

The first chapters of this handbook provide information that you should consider before filing your own lawsuit. If, after considering this information, you decide to file a case in federal court, additional information is provided to assist you in filing your case according to the rules of procedure for our Court.

This handbook should not be considered as either the last word nor your only resource. It is a procedural aid in helping you file and litigate your lawsuit. If, after reading this manual, you still have questions about your case, you may wish to contact the Clerk's Office, but bear in mind, that **employees of the Court cannot give legal advice.**

The Clerk's Office has offices in the following locations:

Evansville Division

Voice (812) 465-6426
Fax (812) 465-6428
304 Federal Building
Evansville, IN 47708

Indianapolis Division

Voice (317) 226-6670
Fax (317) 226-7902
105 U.S. Courthouse
46 E. Ohio Street
Indianapolis, IN 46204

New Albany Division

Voice (812) 948-5238
Fax (812) 948-5246
210 Federal Building
New Albany, IN 47150

Terre Haute Division

Voice (812) 234-9484
Fax (812) 238-1831
207 Federal Building
Terre Haute, IN 47808

Office hours in each location are 8:30 a.m. to 5:00 p.m., Monday through Friday, except for federal holidays.

CHAPTER II

THE STRUCTURE OF THE COURTS

There are two court systems in the United States: the state court system and the federal court system. State courts typically hear civil, domestic (divorce and child custody), probate and property disputes, as well as criminal matters, arising under the laws of each state. Matters typically handled by the federal courts involve alleged violations of the United States Constitution, federal laws (including employment and civil rights laws), patent, trademark and copyright matters, and bankruptcy proceedings. These matters typically heard by federal courts usually fall into one of two main categories: a) cases which "arise under" the Constitution, laws or treaties of the United States ("federal question cases"), and b) disputes arising between parties who are citizens of different states where the amount in controversy exceeds a certain amount set by Congress, currently \$75,000.00 ("diversity cases").

As explained in Chapter III, before filing a case in a federal court, you should first ensure that this Court has **jurisdiction** over your potential lawsuit, which means the power to hear and decide certain cases, based on the kind of case you are bringing and the identity of the parties to the case.

There are two United States District Courts in Indiana: the Southern District and the Northern District Courts. The Southern District consists of the southern 60 counties in Indiana. Decisions from these Courts may be appealed to the United States Court of Appeals for the Seventh Circuit, which is located in Chicago, Illinois.

It is important to realize that generally you should file an action in the federal court for the Southern District of Indiana only if the actions (or inactions) that you believe violated your rights

occurred within the boundaries of the Southern District. The place where you bring your lawsuit is called "venue." For your reference, we have listed the counties within the Southern District to assist you in determining whether you should file your lawsuit in this District or another Federal District Court.

COUNTIES WITHIN THE SOUTHERN DISTRICT OF INDIANA

Indianapolis Division Counties:

Bartholomew, Boone, Brown, Clinton, Decatur, Delaware, Fayette, Fountain, Franklin, Hamilton, Hancock, Hendricks, Henry, Howard, Johnson, Madison, Marion, Monroe, Montgomery, Morgan, Randolph, Rush, Shelby, Tipton, Union and Wayne

Evansville Division Counties:

Daviess, Dubois, Gibson, Martin, Perry, Pike, Posey, Spencer, Vanderburgh and Warrick

Terre Haute Division Counties:

Clay, Greene, Knox, Owen, Parke, Putnam, Sullivan, Vermillion and Vigo

New Albany Division Counties:

Clark, Crawford, Dearborn, Floyd, Harrison, Jackson, Jefferson, Jennings, Lawrence, Ohio, Orange, Ripley, Scott, Switzerland and Washington

CHAPTER III

SIX STEPS TO CONSIDER BEFORE FILING A LAWSUIT

There are six important steps that you should consider before you file a case in federal court.

While useful, this list is not to be considered the exclusive or final word, as, depending on the specifics of a particular case, you may need to consider other factors not listed here. You must also understand that even if you have reviewed all six of these steps, and you believe that you should prevail in your lawsuit, there is always a possibility that for some other reason you may not prevail.

Inmates who seek permission to proceed *in forma pauperis* should take special care when considering these steps, because even if your case is dismissed, you are, by law, required to pay, over some period of time, the entire filing fee relating to your lawsuit, which for civil rights actions is currently \$150.00.

THE SIX ISSUES TO CONSIDER BEFORE FILING A LAWSUIT:

- A. Real Injury or Wrong.
- B. Jurisdiction.
- C. Statute of Limitations.
- D. People You Intend to Sue.
- E. Facts and Evidence.
- F. Necessity of Exhausting Available Remedies.

A. REAL INJURY OR WRONG.

Cases brought by persons without counsel are typically of two kinds: civil rights violations and tort claims.

A **civil rights** case involves a claim seeking recovery for the violation of a person's civil or constitutional rights. This type of claim is usually brought under the federal statute, 42 U.S.C. ' 1983. This statute allows a person to sue individuals (usually government officials) who, while acting under color of state law, violate the constitutional rights of the plaintiff. Individuals who are suing federal officials do not bring their lawsuit pursuant to this statute, however, because federal officials are not "state" actors. Instead, a claim against federal defendants is called a "*Bivens*" action, which derives its name from the case of *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971).

Form complaints that can be used to bring claims under (1) 42 U.S.C. § 1983 and pursuant to the *Bivens* case, and (2) for a non-incarcerated individual to assert a civil rights violation, are in the Forms Index of this Handbook. A form complaint for employment discrimination is available from the Clerk's Office.

A **tort** is defined as a "private or civil wrong or injury." It is distinguished from a criminal offense because it is an injury against an individual as opposed to the government. If a person ran a stoplight and hit your car, a police officer acting on behalf of the state would ticket the driver for running the stoplight, but it would not be able to sue the driver for the damages you sustained in the accident. The injury that happened to you is considered a private wrong or injury, and you, as the victim, would have the option of filing a **civil** suit against the driver seeking money damages for the injuries you sustained. A lawsuit must be based on an injury which the law recognizes and cannot be

based solely on a person's unhappiness or discontent.

B. JURISDICTION.

Jurisdiction is the authority (or power) of a court to hear and decide certain cases. For a court to issue an enforceable judgment, it must have jurisdiction over both the "subject matter" of the controversy and the persons or entities involved. The court system in general is described more fully in Chapter II of this handbook. For a federal court to have jurisdiction over the subject matter of a lawsuit, at least one of two, following criteria must generally be established:

- (1) The case must involve a "federal question" of law, that is, it must arise under federal law; or
- (2) The parties to the case must be residents of different states (known as diversity of citizenship) and the monetary amount in controversy must exceed a certain amount set by Congress, currently \$75,000.00.

C. STATUTE OF LIMITATIONS.

A **statute of limitations** imposes a time limit within which a lawsuit can properly be filed in court. Whether your claim has been filed in time or is barred by the applicable statute of limitations is a legal question which may require legal research on your part. You should research whether your action is barred by the applicable statute of limitations before filing a lawsuit.

D. PEOPLE YOU INTEND TO SUE.

When preparing a complaint, you must include facts (including dates names and events) which support the relief you seek against **each** person or entity you are suing. You may not list six defendants in the caption of your complaint, but only discuss one or two of them in the main part,

or "body," of your complaint. Rather, the people you name in the caption of your complaint, must be included in the text of your complaint and must detail the specific allegations of wrongful conduct against each and every person you have named. List each individual by name whenever possible, and avoid suing groups of people such as "the personnel department" or "the medical staff."

Additionally, you must be able to pinpoint the identity of any one you describe as "John Doe" or "Jane Doe" in your complaint. Service of process cannot be achieved on "Jane Doe" of the XYZ Corporation, nor on "John Doe at the Southland Correctional Facility." Service of process means that copies of your lawsuit must be delivered in a correct way to the people you seek to sue, and if that doesn't happen properly, you will not be able to prevail in your lawsuit against such an individual. It is your responsibility, and not the duty of the Court, to figure out the identities and addresses of those individuals whom you believe caused you to be injured.

E. FACTS AND EVIDENCE.

You cannot sue someone just because you believe or you have a feeling that a person has violated your rights. You must have facts to support your claims. Relevant, important facts include the time and place of the event that caused you some harm, witnesses who observed the action or behavior, and actual items of evidence (such as a memorandum, weapon, police report, medical records or other proof).

The "burden of proof" that is, the duty to establish that some injury under law actually happened, is on the person who brings the claim; that is the only way to win the case; without actual evidence, the case cannot be won.

G. NECESSITY OF EXHAUSTING AVAILABLE REMEDIES.

In some instances, it is necessary for you to pursue certain remedies that may be available to you **before** you can properly bring a claim in federal court. There are three areas in particular where this is likely to arise: (1) if you are appealing a federal agency's decision; (2) if you are seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2254; or (3) if your suit is brought with respect to prison conditions.

(1) Administrative Grievance Procedures.

People frequently want to appeal the decision of some governmental agency that affects them. An example of this is in the area of social security benefits.

If you want to appeal the denial of some benefit that is provided through an agency of the United States government or the state of Indiana, (for example, the denial of an application for social security benefits,) you must go through **all** of the administrative procedures established by the agency for appealing its rulings **before** you file a federal lawsuit, and the agency must issue its final ruling. **After** you have gone through the entire governmental agency process, which is called "exhausting your administrative remedies," you may wish to appeal the decision of the Commissioner of Social Security (a form for this type of appeal is available from the Clerk's Office).

(2) Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254.

A person who is incarcerated or is otherwise "in custody" pursuant to a judgment of conviction from a state court order may wish to challenge the **fact** or **duration** of this confinement. Such a challenge is brought as a petition for writ of habeas corpus against the person who holds the inmate in custody, i.e., the prison's superintendent or warden. If the incarcerated individual can successfully show the violation of a constitutional right which would have otherwise prevented the

incarceration itself (the "fact of incarceration") or the length of time of the incarceration, the Court may grant a writ of habeas corpus, ordering the person released from the unlawful detention.

However, before a petition for a writ of habeas corpus (under 28 U.S.C. § 2254) can be properly filed in the federal court, the petitioner must pursue and **exhaust** all available state law remedies. This means that if you want to challenge a conviction or a sentence, you must first pursue your rights of appeal under Indiana law. Only **after** you have fully pursued your appeal through the state courts will you be eligible to bring a federal petition for a writ of habeas corpus. (This exhaustion requirement for habeas petitions does **not** apply to federal inmates filing habeas actions pursuant to 28 U.S.C. §§ 2241 or 2255).

It is very important to note that there are time limits that apply to petitions seeking a writ of habeas corpus. The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") (Pub. L. No. 104-132, 110 Stat. 1212 (1996)) requires that habeas petitions brought under 28 U.S.C. § 2254 be filed no later than one year after the completion of state court appeal, with certain, limited exceptions. However, the time during which a properly filed state court application for collateral review is pending is excluded from the one-year period. AEDPA, § 101 (codified at 28 U.S.C. § 2244(d)(2)). Therefore, if you are contemplating filing a habeas petition, you should be sure to file your action on time.

(3) Suits Brought with Respect to Prison Conditions.

Current statutes (42 U.S.C. § 1997e(a)) provide that "[n]o action shall be brought with respect to prison conditions under section 1979 of the Revised Statutes of the United States (42 U.S.C. § 1983), or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." You should

make careful notes regarding your efforts to complete all administrative steps, and set out the results of such efforts in your complaint. Failure to do this may result in a dismissal of your action (albeit without prejudice).

In conclusion, it is important that you cover all of these steps before you file a case. After all of these factors have been considered, you must still follow the rules of procedures for the particular court with which you will file your case. Most of the specific procedural rules for our court are set forth in the Local Rules. In Chapter IV of this handbook, briefly discusses some of the rules and procedures for filing lawsuits in this District. If your case needs to be filed in another court, you should contact the Clerk's Office of that court for information regarding local rules and procedures for filing your case.

CHAPTER IV

RULES AND PROCEDURES FOR FILING A CASE IN THE SOUTHERN DISTRICT OF INDIANA

A. FEDERAL AND LOCAL RULES OF CIVIL PROCEDURE.

If you are a party to a lawsuit, either plaintiff or defendant, you are subject to the specific rules of procedure for the court in which your case is filed. Federal courts are governed by the Federal Rules of Civil Procedure ("Fed. R. Civ. P.") as well as other rules of procedure regarding specific areas such as evidence, appeals, etc.

In this District, all procedures are governed not only by the Federal Rules of Civil Procedure but also by the Local Rules adopted by the Court. The numbering system of the Local Rules correlates with the numbering system of the Federal Rules for easy reference. Copies of the Federal and Local Rules of Civil Procedure can be found at most County Court House libraries, law schools and correctional institutions throughout the state.

You can also obtain a personal copy of the Southern District's Local Rules, or of this handbook, if you come, in person, to any of the Clerk's Offices listed in Chapter I of this handbook.

The Clerk's Office can send you a copy of the Southern District's Local Rules only if you submit a written inquiry. The rules are available both on a 3.5" computer disk and in paper form. There may be a fee charged for a copy regardless of whether you are proceeding *in forma pauperis*.

It is important to remember that, as a pro se litigant, **you are responsible for knowing and following the Court's Local Rules and procedures.**

B. FILING FEES.

Most civil actions must be accompanied by the payment of a filing fee in the amount of one hundred and fifty dollars (\$150.00). Except as discussed below (relative to complaints filed by inmates), this fee must generally be paid in full at the time the complaint is presented to the Court for filing.

The procedure for filing a complaint differs depending upon whether the individual commencing the action is an inmate.

(1) Procedure to be followed by non-inmates.

If you are not incarcerated at the time you want to file your action, and you cannot afford to pay the full filing fee of \$150.00, you must follow the following procedure:

- (a) completely fill out an *in forma pauperis* application form and sign it; (copies are available from the Clerk), and
- (b) submit to the Court, at the time you file the action, an original version of your complaint and a copy for each of the defendants named in your lawsuit.

(2) Procedure to be followed by inmates.

All inmates must pay, over time, the full filing fee **even if the inmate is found to be indigent.** These fees are \$5.00 for the filing of a writ of habeas corpus and \$150.00 for all other civil actions.

If you are incarcerated at the time you commence your action, and you cannot afford to prepay the full filing fee at the time you file your complaint, you must follow the following procedure:

- (a) completely fill out an *in forma pauperis* application (a Form *in forma pauperis* application is available in the Forms Index of this Handbook), sign it and have it certified by an authorized prison official at your current place of incarceration; and
- (b) **submit a certified copy of your inmate trust fund account statement** (or institutional equivalent), if available, for the six-month period immediately preceding

the filing of the action; and

(c) submit to the Court, at the time you file the action, an original copy of your complaint.

C. COPIES OF DOCUMENTS.

Pro se litigants proceeding *in forma pauperis*, like everyone else, must serve identical copies of all documents submitted to the Court for filing on the parties named in the lawsuit. Even though you may believe you cannot afford to pay for copies of documents, neither the Court nor the Clerk's Office can make copies for you free of charge. Therefore, you should be aware that if you are proceeding *in forma pauperis* **a 50 cent-per-page charge must be paid in advance for all copies of documents that you file with the Court (including the complaint and any other documents submitted by you or other parties to the action).**

It is a good idea for you to keep a copy of all documents that you send to the Court or the Clerk's Office for your own records. If you cannot afford to pay for copies, you must hand-write copies of these documents for service on the other parties to the action.

CHAPTER V

MOTIONS

A motion is an application or request made to a judge by a party to a lawsuit seeking a ruling or order in his or her favor. Local Rule 7.1, a copy of which is included at the end of this chapter for your reference, sets out the procedure for filing a motion with the Court as well as the appropriate deadlines. Motions must follow the requirements of Local Rule 7.1 or the Court may have to "strike," or disregard, them. Motions are used to seek various types of relief while a lawsuit is pending, such as a motion to amend pleadings or a motion to compel discovery. However, motions should only be filed when necessary; multiple or frivolous motions can result in penalties by the Court. *See Chapter VII Section C.*

Response and Reply Papers.

Responses to motions, like the original motions, must be filed with the Clerk's Office and served on the opposing party within at least fifteen (15) days after filing. A moving party has seven (7) days following service of such response to serve and file a reply.

Parties wishing to file briefs beyond the motion, the response and the reply must obtain the permission of the Court to file such papers, which will be granted only upon a showing of clear necessity.

United States District Court for the Southern District of Indiana

Local Rule 7.1

Motion Practice; Length, Form, and Schedule of Briefs; Attorneys' Conference;

Notification of Settlement/Resolution of Pending Motions

(a) A motion to dismiss under Rule 12 of the *Fed. R. Civ. P.* for summary judgment, for judgment on the pleadings, for more definite statement, to strike, or motions made pursuant to Rule 37 of the *Fed. R. Civ. P.* shall be accompanied by a separate supporting brief. Unless the Court otherwise directs, an adverse party shall have fifteen (15) days after service of the initial brief in which to serve and file an answer brief, and the moving party shall have seven (7) days after service of the answer brief in which to serve and file a reply brief. Unless the Court otherwise directs, as respects all other motions, the adverse party shall have fifteen (15) days after service thereof in which to serve and file a response thereto and the moving party shall have seven (7) days after service of such response in which to serve and file a reply thereto. Time shall be computed as provided in Rule 6, *Fed. R. Civ. P.* Local Rule 6.1 does not apply to the filing of briefs; therefore, extensions of time shall be granted only by order of the assigned or presiding Judge or Magistrate for good cause shown. Each motion shall be separate; alternative motions filed together shall each be named in the caption on the face. Failure to file an answer brief or reply brief within the time prescribed may subject the motion to summary ruling.

(b) Except by permission of the Court, no brief shall exceed 35 pages in length (exclusive of any pages containing a table of contents, table of authorities, and appendices), and no reply brief shall exceed 20 pages. Permission to file briefs in excess of these page limitations will be granted only upon motion supported by extraordinary and compelling reasons.

Briefs exceeding 35 pages in length (exclusive of any pages containing the table of contents, table of authorities, and appendices) shall contain (a) a table of contents with page references; (b) a statement of issues; and (c) a table of cases (alphabetically arranged), statutes and other authorities cited, with reference to the pages of the brief where they are cited.

If a party relies upon a legal decision not published in the *United States Reports*, the *Supreme Court Reporter*, the *Federal Supplement*, the *Federal Rules Decisions*, the *Federal Reporter*, the *Federal Reporter 2d*, the *Federal Reporter 3d*, the *Bankruptcy Reporter*, the *United States Patents Quarterly*, the *North Eastern Reporter 2d*, or on a statute or regulation not found in the current publication of the *United States Code*, the *Code of Federal Regulations*, the *Indiana Code*, or the *Indiana Administrative Code*, then the party shall furnish the Court and all counsel of record with a copy of the relied-upon decision, statute, or regulation. With respect to decisions of the Supreme Court of the United States not yet available in the *United States Reports*, citation should be made both to the *Supreme Court Reporter* and to the *Lawyers' Edition 2d*.

(c) The Court may deny any motion for the award of attorney's fees, except post-

judgment attorney's fees, motion for sanctions under Rule 11, *Fed. R. Civ. P.*, and motion for attorney disqualification (except those motions brought by a person appearing pro se) unless counsel for the moving party files with the Court, at the time of filing the motion, a separate statement showing that the attorney making the motion has made a reasonable effort to reach agreement with opposing attorney(s) on the matter(s) set forth in the motion. This statement shall recite, in addition, the date, time, and place of such conference and the names of all parties participating therein. If counsel for any party advises the Court in writing that opposing counsel has refused or delayed meeting and discussing the matters covered in this Rule, the Court may take such action as is appropriate to avoid unreasonable delay.

(d) The parties shall immediately notify the Court of any reasonably anticipated settlement of a case or the resolution of any pending motion.

CHAPTER VI

REPRESENTATION BY AN ATTORNEY

This handbook was developed to address the needs of a litigant who is filing a lawsuit without the aid of an attorney. However, there may be alternatives to representing yourself if you are without sufficient funds to hire a lawyer to assist you.

A. OBTAINING AN ATTORNEY PRO BONO.

In a **criminal** case, a defendant is **entitled** to legal counsel by the United States Constitution, and one can be provided if it is shown that the criminal defendant lacks sufficient funds to hire a lawyer. However, in a **civil** case, a party is **not entitled** by law to an attorney. There are, however, attorneys and organizations, such as legal aid societies, that may be willing to represent you "pro bono," that is, free of charge. You should contact these offices in an effort to secure representation on your own **before** you request that the Court appoint counsel on your behalf. Keep a detailed record of all the efforts you made and people you contacted to get a lawyer. As discussed more fully below, you must be able to prove to the Court that you could not obtain counsel on your own before the Court can consider appointing an attorney to represent you.

B. APPOINTMENT OF COUNSEL BY THE COURT.

A pro se litigant who has been found to be indigent (typically by the granting of an *in forma pauperis* application) and is unable to otherwise obtain counsel may request, by filing a written motion, that the Court appoint a lawyer for that person. You should be aware, however, that there are many more litigants seeking the appointment of counsel than there are attorneys available to

volunteer their services. Furthermore, there is no entitlement by law to the representation of a lawyer in a civil action, even though you may truly believe that you need an attorney in order to effectively present your case to the Court.

Whether a lawyer is ultimately appointed depends on a number of factors, as directed by the Seventh Circuit. First, the Court must determine whether a party has made reasonable efforts on his or her own to obtain counsel in the private market. *Barnhill v. Doiron*, 958 F.2d 200 (7th Cir. 1992). Second, the Court must determine whether the party's position is legally a serious, or substantial matter. The Court evaluates requests for counsel on the basis of: (1) whether the merits of the claim are colorable; (2) the ability of the indigent to investigate crucial facts; (3) whether the nature of the evidence indicates that the truth will more likely be exposed where both sides are represented by counsel; (4) the capability of the indigent to present the case; and (5) the complexity of the legal issues raised by the complaint. (*Maclin v. Freake*, 650 F.2d 885, 887-88 (7th Cir. 1981).)

Any motion for the appointment of counsel must include details of the party's own efforts to obtain counsel by means other than court appointment. In making such a motion, you should include copies of letters received from attorneys that you contacted regarding your case. **Failure to include documentation which substantiates your attempts to obtain counsel on your own may result in the denial of your motion for appointment of counsel.**

Sometimes the judges may appoint an attorney for any number of different reasons or purposes. An attorney may be appointed for instance for the limited purpose of preparing a confidential report analyzing the merits of the claim(s) raised by the plaintiff; as standby trial counsel to assist the pro se plaintiff at the trial of the lawsuit; as support counsel to assist another attorney;

as trial counsel to conduct the trial of an action or as the party's attorney for both pre-trial matters as well as the actual trial of the lawsuit. What role an attorney may be appointed to fulfill or to perform is entirely within the discretion of the Court.

C. SANCTIONS AND HOW THEY APPLY TO THE PRO SE LITIGANT.

Sanctions is a legal term for penalty or punishment. Pro se litigants are subject to sanctions for some of the same reasons as licensed attorneys. When a party to a lawsuit presents a document to the Court, that party is expected to be verifying the accuracy and reasonableness of that document.

If a submission to the Court is false, improper or frivolous, the party filing such a document may be liable for monetary or other sanctions.

Fed.R.Civ.P. 11 covers these obligations and provides in pertinent part, as follows:

(b) Representations to Court. By presenting to the court ... a pleading, written motion, or other paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, -- (1) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation; (2) the claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law; (3) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

(c) Sanctions. If, after notice and a reasonable opportunity to respond, the court determines that subdivision (b) has been violated, the court may ... impose an appropriate sanction upon the attorneys, law firms, or parties that have violated subdivision (b) or are responsible for the violation.

(2) Nature of Sanction; Limitations. A sanction imposed for violation of this rule shall be limited to what is sufficient to deter repetition of such conduct or comparable conduct by others similarly situated.... [T]he sanction may consist of, or include, directives of a nonmonetary nature, an order to pay a penalty into court, or ... an order directing payment to the movant of some or all of the reasonable attorneys' fees and other expenses incurred as a direct result of the violation.

Thus, pursuant to Fed.R.Civ.P. 11, sanctions imposed by a court could consist of, a monetary penalty or an order to pay the opponent's attorney fees, which could be a substantial amount. The Court may also forbid or "enjoin" a party from filing any future lawsuits until such time as the sanctions imposed have been paid. Sanctions can also be imposed on individuals who are incarcerated.

CHAPTER VII

VIDEOCONFERENCING

Certain courthouses within our district have videoconferencing equipment. This means that individuals in many state and federal penal institutions, as well as others with outside accessibility to similar equipment, may have their court hearings and/or meetings conducted with virtual "face-to-face" interaction with each other, their attorneys and federal judges, without necessitating transportation to the courthouse. Regardless of the division where your suit is filed, certain proceedings may be conducted using this technology. Videoconferencing is most commonly used for pretrial conferences, but it can also be used to obtain witness testimony for certain hearings and trials.

FORMS INDEX

- I. Complaint brought pursuant to 42 U.S.C. § 1983 or pursuant to the *Bivens* case
- II. Complaint for a non-incarcerated individual to assert a civil rights violation
- III. *In forma application* for incarcerated individuals

I. **Complaint brought pursuant to 42 U.S.C. § 1983 or pursuant to the *Bivens* case**

Full name(s)

Prisoner or registration number

Street address or postal box number

City, State and zip code

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA**

Civil Action No. _____
(To be supplied by the Court)

Full name(s) (Do not use ***et al***)

Plaintiff(s)

v.

Full name(s) (Do not use ***et al***)

Defendant(s).

CIVIL RIGHTS COMPLAINT

A. PARTIES

1. I, _____, am a citizen of _____.
(Plaintiff name and prisoner or registration no. if applicable) (State)

and presently reside at _____.
(mailing address or place of confinement)

2. Defendant _____ is a citizen of _____.
(Name of first defendant) (State)

whose address is _____,

and who is employed as _____.

3. Defendant _____ is a citizen of _____.
(name of second defendant) (State)

whose address is _____

and who is employed as _____.

(If more space is needed to furnish the above information for additional defendants, continue on a blank sheet which you should label "A. PARTIES." Be sure to include each defendant's complete address and title.)

B. JURISDICTION

1. This cause of action is brought pursuant to (CHECK ONE)

_____ 42 U.S.C. § 1983 (applies to state prisoners)

_____ *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*,
403 U.S. 388 (1971) (applies to federal prisoners)

2. _____ Jurisdiction also is invoked pursuant to 28 U.S.C. § 1343(a)(3). (If you wish to assert jurisdiction under different or additional statutes, you may list them below.)

C. NATURE OF THE CASE

BRIEFLY state the background of your case.

D. CAUSE OF ACTION

I allege that the following of my constitutional rights, privileges, or immunities have been violated and that the following facts form the basis of my allegations: (If more space is needed to explain any allegation or to list additional supporting facts, continue on a blank sheet which you should label "D. CAUSE OF ACTION.")

Claim I:

Supporting Facts: (Include all facts you consider important, including names of persons involved, places, and dates. Describe exactly how each defendant is involved. State the facts clearly in your own words without citing legal authority or argument.)

Claim II:

Supporting Facts:

Claim III:

Supporting Facts:

E. PREVIOUS LAWSUITS AND ADMINISTRATIVE RELIEF

1. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action or otherwise relating to the conditions of your imprisonment? ____Yes ____No. If your answer is "Yes," describe each lawsuit. (If there is more than one lawsuit, describe the additional lawsuits using this same format on a blank sheet which you should label "E. PREVIOUS LAWSUITS AND ADMINISTRATIVE RELIEF.")

a. Parties to previous lawsuit:

Plaintiff(s): _____

Defendant(s): _____

b. Name and location of court and docket number _____

c. Disposition of lawsuit. (For example, was the case dismissed? Was it appealed? Is it still pending?)

d. Issues raised: _____

e. Approximate date of filing lawsuit: _____

f. Approximate date of disposition: _____

2. I previously have sought informal or formal relief from the appropriate administrative officials regarding the acts complained of in Part D. ____Yes ____No.

If your answer is "Yes," briefly describe how relief was sought and the result.

3. I have exhausted available administrative remedies. ____ Yes ____ No. If your answer is "Yes," briefly explain the steps taken. Attach proof of exhaustion. If your answer is "No," briefly explain why administrative remedies were not exhausted.

F. PREVIOUSLY DISMISSED ACTIONS OR APPEALS

1. If you are proceeding under 28 U.S.C. § 1915, please list each civil action or appeal you have brought in any court of the United States while you were incarcerated or detained in any facility, that was dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted.

Please describe each civil action or appeal. If there is more than one civil action or appeal, describe the additional civil actions or appeals using this same format on a blank sheet which you should label "F. PREVIOUSLY DISMISSED ACTIONS OR APPEALS."

a. Parties to previous lawsuit:

Plaintiff(s): _____

Defendant(s): _____

b. Name and location of court and docket number _____

c. Grounds for dismissal: () frivolous () malicious () failure to state a claim upon which relief may be granted.

d. Approximate date of filing lawsuit: _____

e. Approximate date of disposition: _____

G. REQUEST FOR RELIEF

I request the following relief:

Original signature of attorney (if any)

Prisoner's Original Signature

DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares under penalty of perjury that he/she is the plaintiff in the above action, that he/she has read the above complaint and that the information contained in the complaint is **true and correct**.

Executed at _____ on _____.
(location) (date)

Prisoner's Original Signature

II. **Complaint for a non-incarcerated individual to assert a civil rights violation**

Full name(s)

Street address or postal box number

City, State and zip code

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA**

Civil Action No. _____
(To be supplied by the Court)

Plaintiff(s)
Full name(s) (Do not use ***et al***)

v.

Defendant(s).
Full name(s) (Do not use ***et al***)

CIVIL RIGHTS COMPLAINT

A. PARTIES

1. I, _____, am a citizen of _____
(Plaintiff name(s)) (State)

and presently reside at _____.
(Mailing address)

2. Defendant _____ is a citizen of _____
(name of first defendant) (State)

whose address is _____.

3. Defendant _____ is a citizen of _____
(name of second defendant) (State)

whose address is _____.

(If more space is needed to furnish the above information for additional defendants, continue on a blank sheet which you should label "A. PARTIES." Be sure to include each defendant's complete address and title.)

B. JURISDICTION

1. This cause of action is brought pursuant to _____

2. _____ Jurisdiction also invoked pursuant to 28 U.S.C. § 1343(a)(3). (If you wish to assert jurisdiction under different or additional statutes, you may list them below.)

C. NATURE OF THE CASE

BRIEFLY state the background of your case.

D. CAUSE OF ACTION

I allege that the following of my constitutional rights, privileges, or immunities have been violated and that the following facts form the basis of my allegations: (If more space is needed to explain any allegation or to list additional supporting facts, continue on a blank sheet which you should label "D. CAUSE OF ACTION.")

Claim I:

Supporting Facts: (Include all facts you consider important, including names of persons involved, places, and dates. Describe exactly how each defendant is involved. State the facts clearly in your own words without citing legal authority or argument.)

Claim II:

Supporting Facts: (Include all facts you consider important, including names of persons involved, places, and dates. Describe exactly how each defendant is involved. State the facts clearly in your own words without citing legal authority or argument.)

Claim III:

Supporting Facts: (Include all facts you consider important, including names of persons involved, places, and dates. Describe exactly how each defendant is involved. State the facts clearly in your own words without citing legal authority or argument.)

E. PREVIOUS LAWSUITS

Have you been or are you now a party to any other lawsuit(s) in state or federal court dealing with the same facts involved in this action? ____Yes ____No.

If your answer is "Yes," describe each lawsuit. (If there is more than one lawsuit, describe the additional lawsuits using this same format on a blank sheet which you should label "E. PREVIOUS LAWSUITS.")

a. Parties to previous lawsuit:

Plaintiff(s): _____

Defendant(s): _____

b. Name and location of court and docket number _____

c. Disposition of lawsuit. (For example, was the case dismissed? Was it appealed? Is it still pending?)

d. Issues raised:

e. Approximate date of filing lawsuit:

f. Approximate date of disposition:

F. REQUEST FOR RELIEF

I request the following relief:

Original signature of attorney (if any)

Plaintiff's Original Signature

DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares under penalty of perjury that he/she is the plaintiff in the above action, that he/she has read the above complaint and that the information contained in the complaint is **true and correct**.

Executed at _____ on _____.
(location) (date)

Plaintiff's Original Signature

_____ I request the Court's assistance in serving process on the defendant(s).

III. ***In forma application* for incarcerated individuals**

Full name(s)

Prisoner or registration number

Street address or postal box number

City, State and zip code

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA**

Civil Action No. _____
(To be supplied by the Court)

Full name(s) (Do not use ***et al***)

Plaintiff(s)

v.

Full name(s) (Do not use ***et al***)

Defendant(s).

**MOTION AND AFFIDAVIT FOR LEAVE
TO PROCEED IN FORMA PAUPERIS**

I, _____, declare that I am the plaintiff in the above-entitled proceeding; that, in support of my request to proceed without prepayment of fees under 28 U.S.C. § 1915, I declare that I am unable to pay the fees for these proceedings or give security therefor and that I am entitled to the relief sought in the complaint.

In support of this application, I answer the following questions under penalty of perjury:

1. Are you currently incarcerated: ____ Yes ____ No (If "No" DO NOT USE THIS FORM)

If "Yes" state the place of your incarceration: _____

2. Are you currently employed? ____ Yes ____ No

a. If the answer is "Yes" state the amount of your pay per month: _____

b. If the answer is "No" state the date of your last employment, the amount of your take home salary or wages and pay period, and the name and address of your last employer.

3. In the past twelve months have you received any money from any of the following sources?

a. Business, profession or other self-employment: ____ Yes ____ No

b. Rent payments, interest or dividends: ____ Yes ____ No

c. Pensions, annuities or life insurance payments: ____ Yes ____ No

d. Disability or workers compensation payments: ____ Yes ____ No

e. Gifts or inheritances: ____ Yes ____ No

f. Any other sources: ____ Yes ____ No

If the answer to any of the above is "Yes," describe by that item each source of money and state the amount received and what you expect you will continue to receive. Attach an additional sheet if necessary.

4. Do you have cash or checking or savings accounts? _____ Yes _____ No

If "Yes," state the total amount of funds on deposit: _____

5. Do you own any real estate, stocks, bonds, securities, other financial instruments, jewelry, automobiles or other valuable property? _____ Yes _____ No

If "Yes" describe the property and state its value:

6. Do you have any other assets? _____ Yes _____ No

If "Yes" list the asset(s) and state the value of each asset listed:

7. List the persons who are dependent on you for support, state your relationship to each person and indicate how much you contribute to their support:

I hereby authorize the agency having custody of me to collect from my trust account and forward to the Clerk of the United States District Court payments in accordance with 28 U.S.C. § 1915(b)(2).

I declare under penalty of perjury that the above information is true and correct.

DATE

ORIGINAL SIGNATURE OF APPLICANT

REQUIRED CERTIFICATIONS

Attach to this motion and affidavit: 1) a certified copy of your trust fund account statement (or institutional equivalent), if available, for the six-month period immediately preceding the filing of this action, AND 2) the completed Certificate which follows.

CERTIFICATE

I certify that the applicant named herein has the sum of \$ _____ on account to his credit at _____, the institution where he is confined. I further certify that the applicant likewise has the following securities to his credit according to the records of said institution: _____
_____. I further certify that during the last six months the applicant's average balance in his trust fund account was \$ _____.

Authorized Officer of Institution